



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2015-0192; FRL- 9927-96-Region-5]

**Approval of Air Quality Implementation Plans; Ohio: Cleveland
and Delta; Determination of Attainment for the 2008 Lead
Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On February 20, 2015, the Ohio Environmental Protection Agency (Ohio EPA) submitted a request to the Environmental Protection Agency (EPA) to make a determination under the Clean Air Act (CAA) that the Cleveland and Delta nonattainment areas have attained the 2008 lead (Pb) national ambient air quality standard (NAAQS or standard). In this action, EPA is determining that the Cleveland and Delta nonattainment areas (hereafter also referred to as the "Cleveland area", "Delta area" or "areas") have attained the 2008 Pb NAAQS. These determinations of attainment are based upon complete, quality-assured and certified ambient air monitoring data for the 2012-2014 design period showing that the areas have monitored attainment of the 2008 Pb NAAQS. Additionally, as a result of this determination, EPA is

suspending the requirements for the areas to submit attainment demonstrations, together with reasonably available control measures (RACM), reasonable further progress (RFP) plans, contingency measures for failure to meet RFP, and attainment deadlines for as long as the areas continue to attain the 2008 Pb NAAQS.

DATES: This direct final rule will be effective [**insert date 60 days from date of publication in the Federal Register**], unless EPA receives adverse comments by [**insert date 30 days from date of publication in the Federal Register**]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2015-0192, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: aburano.douglas@epa.gov.
3. Fax: (312) 408-2279.
4. Mail: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. Hand Delivery: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2015-0192. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your

e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra, Environmental Scientist, at (312) 886-9401 before visiting the

Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-9401, arra.sarah@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Action is EPA Taking?
- II. What is the Background for This Action?
- III. Application of EPA’s Clean Data Policy to the 2008 Pb NAAQS
- IV. Do the Cleveland and Delta Areas Meet the 2008 Pb NAAQS?
- V. What is the Effect of This Action?
- VI. Statutory and Executive Order Reviews

I. What Action is EPA Taking?

EPA is taking final action to determine that the Cleveland area and Delta area have attained the 2008 Pb NAAQS. This is based upon complete, quality-assured and certified ambient air monitoring data for the 2012-2014 monitoring period showing that the areas have monitored attainment of the 2008 Pb NAAQS.

Further, with this determination of attainment, the requirements for the Cleveland and Delta areas to submit

attainment demonstrations together with RACM, RFP plans, and contingency measures for failure to meet RFP and attainment deadlines are suspended for as long as the area continues to attain the 2008 Pb NAAQS. As discussed below, this action is consistent with EPA's regulations and with its longstanding interpretation of subpart 1 of part D of the CAA.

If either the Cleveland area or the Delta area violates the 2008 Pb NAAQS after this action, the basis for the suspension of these attainment planning requirements would no longer exist for that area, and the area would thereafter have to address applicable requirements.

II. What is the Background for This Action?

On November 12, 2008 (73 FR 66964), EPA established a 2008 primary and secondary Pb NAAQS at 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) based on a maximum arithmetic three-month mean concentration for a three-year period. See 40 CFR 50.16. This is the "2008 Pb NAAQS." On November 22, 2010 (75 FR 71033), EPA published its initial air quality designations for the 2008 Pb NAAQS based upon air quality monitoring data from those monitors for calendar years 2007-2009. These designations became effective on December 31, 2010.¹ The Cleveland and Delta areas

¹ EPA completed a second and final round of designations for the 2008 Lead NAAQS on November 22, 2011. See 76 FR 72097. No additional areas in Ohio were designated as nonattainment for the 2008 Lead NAAQS.

were designated nonattainment for the 2008 Pb NAAQS. See 40 CFR 81.343.

On February 20, 2015, the Ohio EPA submitted a request to EPA to make a determination that the Cleveland and Delta areas have attained the 2008 Pb NAAQS based on complete, quality-assured, quality-controlled monitoring data from 2012 through 2014. For the reasons set forth in this notice, EPA finds the request approvable.

III. Application of EPA's Clean Data Policy to the 2008 Pb NAAQS

Following enactment of the CAA Amendments of 1990, EPA promulgated its interpretation of the requirements for implementing the NAAQS in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (General Preamble) 57 FR 13498, 13564 (April 16, 1992). In 1995, based on the interpretation of CAA sections 171 and 172, and section 182 in the General Preamble, EPA set forth what has become known as its "Clean Data Policy" for the 1-hour ozone NAAQS. See Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, "RFP, Attainment Demonstration, and Related Requirements for Ozone Nonattainment areas Meeting the Ozone National Ambient Air Quality Standard" (May 10, 1995). In 2004, EPA indicated its intention to extend the Clean Data

Policy to the (fine particulates) PM_{2.5} NAAQS. See Memorandum from Steve Page, Director, EPA Office of Air Quality Planning and Standards, "Clean Data Policy for the Fine Particle National Ambient Air Quality Standards" (December 14, 2004).

Since 1995, EPA has applied its interpretation under the Clean Data Policy in many rulemakings, suspending certain attainment-related planning requirements for individual areas, based on a determination of attainment. For a full discussion on EPA's application of this policy, see section III of the Bristol, Tennessee Determination of Attainment for the 2008 Pb Standards (77 FR 35653).

IV. Do the Cleveland and Delta Areas Meet the 2008 Pb NAAQS?

A. Criteria

Today's rulemaking assesses whether the Cleveland and Delta areas have attained the 2008 Pb NAAQS, based on the most recent three years of quality-assured data. The Cleveland area, which surrounds the Ferro Corporation facility, is comprised of the portions of Cuyahoga County that are bounded on the west by Washington Park Blvd./Crete Ave./East 49th St., on the east by East 71st St., on the north by Fleet Ave., and on the south by Grant Ave. The Delta area, which surrounds the Bunting Bearings facility, is comprised of the portions of Fulton County that are bounded by sections 12 and 13 of York Township and sections 7

and 18 of Swan Creek Township.

Under EPA regulations at 40 CFR 50.16, the 2008 primary and secondary Pb standards are met when the maximum arithmetic three-month mean concentration for a three-year period, as determined in accordance with 40 CFR part 50, appendix R, is less than or equal to $0.15 \mu\text{g}/\text{m}^3$ at all relevant monitoring sites in the subject area.

EPA has reviewed the ambient air monitoring data for the Cleveland and Delta areas in accordance with the provisions of 40 CFR part 50, appendix R. All data considered are complete, quality-assured, certified, and recorded in EPA's Air Quality System (AQS) database. This review addresses air quality data collected in the 2012-2014 period which are the most recent quality-assured data available.

B. Cleveland Area Air Quality

The 39-035-0049 monitoring site is a Federal reference method (FRM) source-oriented monitor which meets the quality assurance requirements of 40 CFR 58, appendix A. After the Ferro facility completed repairs, installed additional back-up control devices, and implemented a preventative maintenance plan by 2012, the Pb values have been well below the standard.

Table 1 shows the 2012-2014 three-month rolling averages for the Cleveland area.

Location	AQS site ID	3-month period	2012	2013	2014
Ferro - E. 56 th St., Cleveland	39-035-0049 #1	Nov-Jan ²	0.02	0.01	0.01
		Dec-Feb	0.01	0.01	0.01
		Jan-Mar	0.02	0.01	0.01
		Feb-Apr	0.02	0.01	0.01
		Mar-May	0.03	0.02	0.01
		Apr-Jun	0.03	0.02	0.01
		May-July	0.03	0.02	0.01
		Jun-Aug	0.02	0.02	0.02
		July-Sept	0.02	0.02	0.01
		Aug-Oct	0.02	0.01	0.01
		Sept-Nov	0.01	0.01	0.01
		Oct-Dec	0.01	0.01	0.01

Table 2 shows the 2012-2014 three-month rolling averages for the co-located monitor in the Cleveland area.

Location	AQS site ID	3-month period	2012	2013	2014
Ferro - E. 56 th St., Cleveland	39-035-0049 #2	Nov-Jan ³	0.02	0.01	0.01
		Dec-Feb	0.01	0.01	0.01
		Jan-Mar	0.02	0.01	0.01
		Feb-Apr	0.03	0.01	0.01
		Mar-May	0.03	0.02	0.01
		Apr-Jun	0.03	0.03	0.01
		May-July	0.03	0.02	0.01
		Jun-Aug	0.02	0.02	0.02
		July-Sept	0.02	0.02	0.01
		Aug-Oct	0.01	0.01	0.01
		Sept-Nov	0.01	0.01	0.01
		Oct-Dec	0.01	0.01	0.01

The data shown in Tables 1 and 2 are complete, quality-assured, and certified and show 0.03 $\mu\text{g}/\text{m}^3$ as the highest three-month rolling average.

² When calculating a three-month rolling average, the first two data points, November through January for 2012 and December through February of 2012, would additionally use data from November and December of 2011.

³ The 2012 data set includes data from November and December of 2011.

The Ferro Corporation facility's National Emissions Inventory (NEI) emissions in 2011 were 0.0046 tons per year (tpy). With the combination of completed repairs, installation of additional back-up control devices, and implementation of a preventative maintenance plan at the facility, the design value at the monitor is now about a fifth of the standard.

EPA's review of these data indicates that the Cleveland area has attained and continues to attain the 2008 Pb NAAQS, with a design value of 0.03 $\mu\text{g}/\text{m}^3$ for the period of 2012-2014.

C. Delta Area Air Quality

The 39-051-0001 monitoring site is a FRM source-oriented monitor which meets the quality assurance requirements of 40 CFR 58, appendix A. After the Bunting Bearings facility began compliance with Federally enforceable lead emissions limits and implemented a preventative maintenance plan by 2012, the Pb values have been well below the standard.

Table 3 shows the 2012-2014 three-month rolling averages for the Delta area.

Location	AQS site ID	3-month period	2012	2013	2014
Bunting Bearings Facility - 200 Van Buren St., Delta	39-051-0001 #1	Nov-Jan ⁴	0.07	0.04	0.05
		Dec-Feb	0.05	0.05	0.04
		Jan-Mar	0.06	0.04	0.05
		Feb-Apr	0.07	0.03	0.04
		Mar-May	0.08	0.03	0.03
		Apr-Jun	0.08	0.04	0.03

⁴ The 2012 data set includes data from November and December of 2011.

		May-July	0.08	0.04	0.03
		Jun-Aug	0.06	0.04	0.04
		July-Sept	0.08	0.03	0.03
		Aug-Oct	0.06	0.05	0.04
		Sept-Nov	0.06	0.06	0.09
		Oct-Dec	0.02	0.06	0.08

Table 4 shows the 2012-2014 three-month rolling averages for the co-located monitor in the Delta area.

Location	AQS site ID	3-month period	2012	2013	2014
Bunting Bearings Facility - 200 Van Buren St., Delta	39-051-0001 #2	Nov-Jan ⁵	0.07	0.03	0.05
		Dec-Feb	0.04	0.03	0.02
		Jan-Mar	0.06	0.03	0.03
		Feb-Apr	0.08	0.02	0.03
		Mar-May	0.08	0.03	0.03
		Apr-Jun	0.08	0.03	0.03
		May-July	0.07	0.04	0.03
		Jun-Aug	0.05	0.04	0.04
		July-Sept	0.08	0.04	0.03
		Aug-Oct	0.06	0.06	0.04
		Sept-Nov	0.06	0.06	0.08
		Oct-Dec	0.02	0.06	0.07

The data shown in Tables 3 and 4 are complete, quality-assured, and certified and show 0.09 $\mu\text{g}/\text{m}^3$ as the highest three-month rolling average.

The Bunting Bearings facility's NEI emissions in 2011 were 0.0035 tpy. With the combination of compliance with Federally enforceable lead emissions limits and implementation of a preventative maintenance plan, the design value at the monitor is now about three-fifths of the standard.

⁵ The 2012 data set includes data from November and December of 2011.

EPA's review of these data indicates that the Delta area has attained and continues to attain the 2008 Pb NAAQS, with a design value of $0.09 \mu\text{g}/\text{m}^3$ for the period of 2012-2014.

V. What is the Effect of This Action?

Based on complete, quality-assured and certified data for 2012-2014, EPA is determining that the Cleveland and Delta areas have attained the 2008 Pb NAAQS. The requirements for the Ohio EPA to submit attainment demonstrations and associated RACM, RFP plans, contingency measures, and any other planning SIPs related to attainment of the 2008 Pb NAAQS for the Cleveland and Delta areas are suspended for as long as the areas continue to attain the 2008 Pb NAAQS. EPA rulemaking is consistent and in keeping with its long-held interpretation of CAA requirements, as well as with EPA's regulations for similar determinations for ozone (see 40 CFR 51.918) and $\text{PM}_{2.5}$ (see 40 CFR 51.1004(c)).

This action does not constitute a redesignation of the area to attainment of the 2008 Pb NAAQS under section 107(d)(3) of the CAA. This action does not involve approving a maintenance plan for the area as required under section 175A of the CAA, nor does it find that the area has met all other requirements for redesignation. The Cleveland and Delta areas remain designated nonattainment for the 2008 Pb NAAQS until such time as EPA determines that the areas meet the CAA requirements for

redesignation to attainment and takes action to redesignate the area.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [**insert date 60 days from the date of publication in the Federal Register**] without further notice unless we receive relevant adverse written comments by [**insert date 30 days from the date of publication in the Federal Register**]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If

we do not receive any comments, this action will be effective [insert date 60 days from the date of publication in the Federal Register].

VI. Statutory and Executive Order Reviews.

This action makes attainment determinations for the Cleveland and Delta areas for the 2008 lead NAAQS based on air quality data and results in the suspension of certain Federal requirements and does not impose any additional requirements. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the attainment determination is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9,

2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**insert date 60 days from the date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with

objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: May 13, 2015.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52-- Approval and Promulgation of Implementation Plans

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.1892 is amended by adding paragraph (f) to read as follows:

§ 52.1892 Determination of attainment.

* * * * *

(f) Based upon EPA's review of the air quality data for the three-year period 2012 to 2014, EPA determined that the Cleveland and Delta, OH lead nonattainment areas have attained the 2008 Lead National Ambient Air Quality Standard (NAAQS). This clean data determination suspends the requirements for these areas to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 2008 lead NAAQS.

[FR Doc. 2015-12500 Filed: 5/22/2015 08:45 am; Publication Date: 5/26/2015]